

Remarks

Reconsideration of this Application is respectfully requested.

Claim 1 is sought to be amended. Claims 1-12 are pending in the application, with 1 being the sole independent claim. No new matter has been entered by any amendments.

Based on the above amendment and following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 1 and 4-12 were rejected under 35 U.S.C. § 103(a) ("103") as being unpatentable over U.S. Patent No. 5,715,084 to Takahashi et al. ("Takahashi") in view of U.S. Patent No. 5,593,606 to Owen et al. ("Owen"). Claim 2 was rejected under 103 as being unpatentable over Takahashi in view of Owen, and in further view of U.S. Patent No. 5,593,606 to Zhang et al. ("Zhang"). Claim 3 was rejected under 103 as being unpatentable over Takahashi in view of Owen, and in further view of U.S. Patent No. 4,342,517 to Johnson et al. ("Johnson"). Applicant traverses these rejections.

Although Applicant continues to disagree with the Examiner's rejections, Applicant has amended claim 1 in order to expedite prosecution.

Amended Claim 1 recites at least "wherein the variable wave plate is positioned along the axis adjacent the reticle and before the first optical device."

The Examiner alleges in the November 19, 2004 Office Action, at page 2, that Takahashi teaches the wave plate is element 4 in FIG. 1 and the first optical element is elements 2 and 5 in FIG. 1. Although the Applicant disagrees with this characterization as going against the teaching in Takahashi (*see* Amendment and Reply under 37 C.F.R. § 1.111 filed August 31, 2004, pages 6-7), based on these allegations of the Examiner, Takahashi fails to teach or suggest the wave plate is located **before** the first optical device, as recited in amended claim 1. None of the other patents applied by the Examiner cure the deficiencies of Takahashi. Therefore, at least "wherein the variable

wave plate is positioned along the axis adjacent the reticle and before the first optical device," as recited in amended claim 1, is neither taught or suggested by Takahashi either singly or in combination with any of the other applied patents. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection. Also, at least based on their dependency to claim 1, claims 2-12 should be found allowable over the applied patent.

Rejection under the judicially created doctrine of Obviousness-Type Double Patenting

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent 6,680,798.

Applicant is submitting a Terminal Disclaimer concurrently herewith to overcome the double patenting rejection. Thus, Applicant respectfully requests the Examiner reconsider and withdraw the rejection.

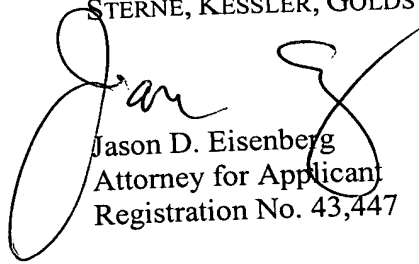
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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